

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

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| MICROBRIGHTFIELD, INC., | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | File No. 1:05-CV-244 |
| | : | |
| ROBERT BOEHRINGER, | : | |
| Defendant. | : | |
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RULING ON PENDING MOTIONS
(Papers 30, 31, 33, and 35)

Plaintiff MicroBrightField, Inc. ("MBF") brings this action against its former employee, Robert Boehringer, alleging copyright infringement, breach of contract, unauthorized access of its computer system, and misappropriation of trade secrets, in violation of federal and Vermont law. The case is now before the Court on Boehringer's motion to substitute counsel (Paper 31), Boehringer and his new employer Visiopharm's motions to quash a subpoena (Papers 30 and 33), and MBF's motion to compel responses to interrogatories (Paper 35). Upon review of the motions and responses, the Court makes the following rulings.

Boehringer's motion to substitute counsel (Paper 31) is GRANTED. As to Boehringer and Visiopharm's motions to quash the subpoena issued to Yahoo! Inc. (Papers 30 and 33), the Court assumes there is only one subpoena currently in effect -- the subpoena issued from the Northern District of California, where

Yahoo is located. See Paper 34 at 2, n.2. Based on that assumption, the Court is without jurisdiction to consider the motions to quash. See Fed. R. Civ. P. 45(c)(3)(A), cmt. C45-22. Therefore, the motions to quash are DENIED without prejudice to renew in the event this Court has jurisdiction.

MBF moves to compel answers to interrogatories to which Boehringer did not reply on the basis that MBF had exceeded the federal limit of 25 interrogatories. (Paper 35.) The parties are ordered to meet and confer in good faith to resolve this issue by April 14, 2006. See Fed. R. Civ. P. 33(a); see also Border Collie Rescue, Inc. v. Ryan, Slip Copy 2005 WL 662724 (M.D. Fla. 2005); Banks v. Office of the Senate Sergeant-at-Arms, 222 F.R.D. 7 (D.D.C. 2004); Kendall v. GES Exposition Serv., Inc., 174 F.R.D. 684 (D. Nev. 1997). The parties should also resolve MBF's request for production of Boehringer's computers and data storage devices. In the event the parties do not cooperate and resolve the discovery issues, the Court will hold a hearing and require attorneys to be present. Counsel for both sides are advised this Court will not tolerate personal attacks upon opposing counsel, and that counsel are expected to cooperate in the orderly and timely discovery process without the need to waste either the Court's time or that of opposing counsel.

In conclusion, Boehringer's motion to substitute counsel (Paper 31) is GRANTED. Boehringer and Visiopharm's motions to

quash the subpoena (Papers 30 and 33) are DENIED without prejudice to renew. MBF's motion to compel (Paper 35) is also DENIED without prejudice. The parties shall meet and confer to resolve these discovery disputes by April 14, 2006.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 30th day of March, 2006.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge